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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
BRIAN A. BENCKOWSKI, *Republican Staff Director*

May 18, 2010

Ms. Terri Garner
Director
William J. Clinton Presidential Library and Museum
1200 President Clinton Avenue
Little Rock, AR 72201

Dear Ms. Garner:

We ask that you provide documents to the Senate Judiciary Committee in connection with President Obama's nomination of Solicitor General Elena Kagan to be Associate Justice of the Supreme Court of the United States.

Solicitor General Kagan served as Associate Counsel to President Clinton from 1995 to 1996 and as Deputy Assistant for Domestic Policy to President Clinton from 1997 to 1999. We request that the documents you identify and provide to the Committee from her service in the White House include the following, consistent with the attached guidelines:

- (1) Records from Elena Kagan's service as an Associate Counsel to the President, including all records preserved in her staff files, and those records created by Elena Kagan that can readily be found in the files of other White House staff members, the White House Counsel's Office files, other White House offices' files, and the Subject Matter Files maintained by the Staff Secretary and/or the White House Office of Records Management;
- (2) Records from Elena Kagan's service as Deputy Director of the Domestic Policy Council, including all records preserved in her staff files, and those records created by Elena Kagan that can readily be found in the files of other White House staff members, the White House Counsel's Office files, other White House offices' files, and the Subject Matter Files maintained by the Staff Secretary and/or the White House Office of Records Management;
- (3) Records relating to Elena Kagan's nomination to the United States Court of Appeals for the District of Columbia Circuit;
- (4) All electronic mail sent by or received by Elena Kagan in her White House tenure, including any documents attached to such emails;

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(5) To the extent they are not included in response to categories (1) through (4), all records containing documents written by, edited by, prepared in whole or part by, under the supervision of, or at the direction of Elena Kagan, as well as documents referencing Elena Kagan by name, initials, or title, and documents received by or sent to Elena Kagan.

If any document is withheld on the basis of any privilege, please include a description and explanation consistent with paragraph (e) of the guidelines. In order to expedite your response to the Committee's request, we ask that you produce documents to us on a rolling basis as you identify categories responsive to our request. We know that White House Counsel Robert F. Bauer's May 15 letter in connection with the release of documents related to this matter offered to assist you in expediting their release. Please note that documents provided to the Committee, in contrast to those released to the public, are not governed by the Freedom of Information Act. We recognize that reviewing the archives and producing these documents is a significant task, and thank you in advance for your efforts.

Sincerely,



Patrick Leahy
Chairman



Jeff Sessions
Ranking Member

cc: Mr. Robert F. Bauer
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, DC

The Honorable David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Ave., NW
Washington, DC 20408

Encl.

Guidelines

- a) This request is continuing in character. If additional responsive documents come to your attention following your initial production, please provide such documents to the Committee promptly.
- b) As used herein, “documents” or “records” includes electronic mail messages (“Email”).
- c) As used herein, “document” means the original (or an additional copy when an original is not available), all attached documents, and each distribution copy whether inscribed by hand or by electronic or other means. This request seeks production of all documents described, including all drafts and distribution copies, and contemplates production of responsive documents in their entirety, without abbreviation or expurgation.
- d) In the event that any requested document has been destroyed, discarded, or otherwise disposed of, please identify the document as completely as possible, including the date, author(s), addressee(s), recipient(s), title, and subject matter, and the reason for disposal of the document and the identity of all persons who authorized disposal of the document.
- e) If a claim is made that any requested document will not be produced by reason of a privilege of any kind, describe each such document by date, author(s), addressee(s), recipient(s), title, and subject matter, and set forth the nature of the claimed privilege with respect to each.